

REMARKS

Claims 1-11, 13-20, and 38-40 were previously pending. By this response, Applicant amends claims 1, 38, and 39. As a result, claims 1-11, 13-20, 38, and 39 are pending with claims 1, 38, and 39 being independent claims. No new matter is added.

Interview

Initially, Applicant thanks the Examiner Lang and Supervising Examiner Manahan for the courtesies extended during a telephone interview on February 26, 2008. During the interview, independent claim 1 was discussed in view of US 5,417,700 (Egan). It was agreed that the language added to claim 1 by this amendment would patentably distinguish Egan. It was also agreed that the allowability of claim 39 would not be affected by amending the term "wire" to instead recite "wire loop suture", as now recited in claim 39.

Allowable Subject Matter

Applicant acknowledges the Examiner's finding that claims 38-40 are allowed. Applicant hereby amends each of claims 38 and 39 to delete the phrase "and the leading end". Claims 38 and 39 are still believed to be in condition for allowance

Double Patenting Rejection is Overcome

Claims 1-11, 13-20, and 38-40 stand provisionally rejected on the grounds of nonstatutory obviousness type-double patenting over claims 1-22 of copending Application No. 10/396927. Applicant submits herewith a terminal disclaimer to overcome this provisional rejection. Accordingly, withdrawal is respectfully requested.

Independent Claim 1 Rejection is Overcome

Claims 1-6, 8-11, and 13-18 stand rejected under 35 USC §102(b) as being anticipated by Egan. Claims 7 and 19 stand rejected under 35 USC §103(a) as being unpatentable over Egan.

Independent claim 1 is amended to define a suturing instrument that comprises, among other aspects, a cutter adapted pass between first and second islands to cut the suture wire so as to free the wire loop suture from suture wire remaining in the instrument and bend each end of the wire loop suture around one of the first island and the second island.

As agreed during the interview, Egan does not disclose a cutter adapted pass between first and second islands to cut the suture wire so as to free a wire loop suture from suture wire remaining in an instrument and bend each end of the wire loop suture around one of the first island and the second island, as claim 1 is amended to recite. The features of Egan pointed to on page 4 of the office action do not correspond to the claimed first and second island, at least because Egan does describe bending each end of a wire loop suture around one of these features. Additionally, the anvil 30, as shown in Figures 10a and 10b of Egan, does not correspond to the first and second island, as claimed, since a cutter does not pass between the anvil.

For at least the above described reasons, the rejection of claim 1, and the claims depending therefrom is overcome. Accordingly, withdrawal of this rejection is respectfully requested.


CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

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Respectfully submitted,

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